

Decision 01-12-028 December 11, 2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PAULA KARRISON,

Complainant,

vs.

A&P MOVING, INC.,

Defendant.

Case No. 95-03-057
(Filed March 23, 1995)

Paula Karrison, Complainant.
George M. Carr and Edward Hegarty,
For A&P Moving, Inc., Defendant.
David W. Gordon, for Fireman's Fund
Insurance Company and Macon
Insurance Service, Interested Party.

ORDER DENYING REHEARING
OF DECISION (D.) 01-08-002

I. INTRODUCTION

Paula Karrison ("Karrison") filed her initial complaint in this proceeding on March 23, 1995, alleging that A&P Moving, Inc. ("A&P"), Fireman's Fund Insurance ("Fireman's Fund") and Macon Service Company violated Public Utilities Code Sections 4130-4132, General Orders (GO) 136-C and 139-C, and Insurance Code Section 1763 during or after the transportation of Karrison's household goods from Corte Madera to storage at A&P's facility in Novato, California. In Decision (D.) 96-12-060, we denied relief against the named insurance companies because they are not public utilities subject to Commission jurisdiction.

Karrison and A&P entered into a contract for shipment and storage of Karrison's household goods in A&P's Novato facility. On June 4, 1994, as scheduled, A&P arrived to pick up 4300 pounds of household goods from Karrison. While loading, A&P dropped a bedroom vanity, which broke into three pieces. Karrison alleged that A&P tried to conceal the damage, an allegation which A&P disputed. The furniture was transported to Novato and placed in A&P's storage facility.

In August, 1994, when Karrison received the storage forms to complete, she disputed the amount alleged as the value of the shipment. Karrison claims that she intended to declare an extraordinary value of \$6,000 for an heirloom bedroom set and placed a note to this effect on the warehouse contract. A&P argued that Karrison did not follow proper procedures to make this valuation and contended that individual items could not be valued under Commission regulations, only the entire shipment. In D.01-08-002, we determined that, because there was no "meeting of the minds" between Karrison and A&P regarding the value of the bedroom set, the entire shipment remained at the default value of \$20,000 as provided in General Order 136-C.

Instead of immediately reporting Karrison's claim to its insurance carrier, A&P chose the allowable option of repairing the furniture. On September 2, 1994, Karrison wrote to A&P inquiring about the status of its investigation and the damage claim. A&P responded by telephone, indicating its rejection of Karrison's intended valuation of the bedroom set. A&P also informed Karrison that a repairman had indicated he could repair the broken vanity. A&P requested that Karrison inspect the repairs when completed, but placed Karrison on notice that it could not honor any claim until her bill was paid, and admonished her that if she refused to pay, or did not keep current on monthly storage charges, it would have no choice but to place a lien on the household goods. On November 14, 1994, Karrison paid \$300 on a total bill of \$909.95.

A&P repaired the damaged furniture in a timely manner, and upon inspection Karrison rejected the first repairs. A&P had a craftsman from Butterfield and Butterfield repair the furniture twice by February, 1995. By this time, Karrison had moved to Los Angeles, and A&P sent her \$500 for travel expenses to attend an inspection. After Karrison again rejected the repairs, A&P's craftsman showed the work to two other repairmen, who indicated they could not improve upon the repairs. Although Karrison's bill remained unpaid, A&P forwarded Karrison's damage claim to Fireman's Fund, its insurer.

A Fireman's Fund representative attended the second inspection of the repairs. At the inspection, Karrison rejected the repairs and claimed that the vanity was worth \$3,000. Fireman's Fund later requested an appraisal. After Karrison failed to produce an appraisal, Fireman's Fund obtained three appraisals, which valued the vanity at roughly \$400 and the entire bedroom set at approximately \$1,000.

Karrison filed this formal complaint proceeding in March, 1995, requesting an order from the Commission preventing a scheduled auction of her household goods to satisfy A&P's outstanding bill. At the prehearing conference ("PHC"), Karrison promised to pay the remainder of the bill by a date in August set by the presiding ALJ. However, A&P had already scheduled the auction for July. A&P attempted to reschedule the auction after the PHC, but Karrison refused to waive notice of the second date so that the auction could be rescheduled. A&P proceeded with the auction as scheduled in July, 1995, and the household goods were sold for \$436. This amount was applied to Karrison's outstanding bill, and the remaining balance was written off as an uncollectible debt.

In the interim period between 1995 and the present, Karrison has pursued numerous avenues of redress before the Commission, resulting in the issuance of no less than six separate Commission decisions. See D.96-12-060,

D.97-09-092, D.97-10-034, D.98-04-064, D.99-01-035 and D.99-06-030.¹

Karrison filed a timely appeal of D.99-01-035 to the California Supreme Court, which denied review. Karrison also sought review of various portions of D.97-10-034, D.98-04-064 and D.99-06-030, and the California Supreme Court denied review on November 14, 2001.

Prehearing conferences were held in this matter on the following dates: July 7, 1995; December 7, 1995; June 26, 1997; and June 20, 2000. A status conference was held on January 4, 2001, and an evidentiary hearing was held on March 5, 6 and 7, 2001. Following the evidentiary hearing, the presiding ALJ issued a proposed decision (“PD”) on July 3, 2001. Karrison filed comments on the PD on July 23, 2001, and A&P filed comments on the PD on July 27, 2001.

On August 6, 2001, we issued D.01-08-002. The Decision found that A&P did not commit violations of applicable rules, regulations, or statutes governing the transportation of household goods before, during, or after events surrounding the move of Karrison’s household goods. The Decision also found that Karrison failed to perfect her damage claim due to her failure to pay the transportation and accrued storage charges.

On August 24, 2001, Karrison filed an Application for Rehearing of D.01-08-002. A&P filed a Response to Karrison’s Application for Rehearing on September 5, 2001.

II. DISCUSSION

In her rehearing application, Karrison challenges D.01-08-002 on the following grounds: 1) the Decision violates Karrison’s due process rights; 2) the underlying proceedings deprived Karrison of equal protection of the laws; and 3) the evidence submitted to the Commission does not support the Decision’s findings of fact and conclusions of law. Karrison also attempts to reargue issues

¹ Karrison received an award from the Advocates Trust Fund for her role in formulating a new Commission policy prohibiting household goods carriers from selling the property of a shipper who had filed a formal complaint against the carrier during the pendency of the complaint. Karrison received \$12,000 for her efforts, even though the new policy was ultimately reversed.

addressed in prior Commission decisions and rehearing applications; however, these arguments will not be addressed herein because Karrison's time to apply for rehearing of these decisions has expired and because Karrison has exhausted her right of appeal as to these decisions.

A. Due Process.

In her rehearing application, Karrison alleges that she was denied due process of law; however, her rehearing application is vague and ambiguous as to precisely how her due process rights were violated. As the party seeking rehearing, Karrison has the burden to demonstrate the specific grounds upon which she considers the Decision unlawful. Vague assertions as to the record or the law, without citation or specificity, will be afforded little weight. (See Public Utilities Code Section 1732; see also Rule 86.1; Cal. Code Regs., Tit. 20, Sec. 86.1.)

Even giving her rehearing application the broadest reading possible, Karrison's due process argument is entirely without merit. Due process requires that the government afford notice and a meaningful opportunity to be heard. (Bell v. Burson (1971) 402 U.S. 535, 541; Beaudreau v. Superior Court (1975) 14 Cal.3d 448, 458.) Karrison participated in four days of prehearing conferences, three days of evidentiary hearings, and was provided an opportunity to comment on the PD before a final decision was issued. As noted above, this extensive participation and opportunity to comment is indicative of the expansive due process Karrison has received at the Commission in this matter. (See D.96-12-060, D.97-09-092, D.97-10-034, D.98-04-064, D.99-01-035 and D.99-06-030, all stemming from Karrison's complaint against A&P.) For the purpose of this rehearing application, however, it is sufficient to note that Karrison has had a full and fair opportunity to be heard in this proceeding.

B. Equal Protection.

Karrison further asserts that D.01-08-002 deprived her of equal protection of the laws, although again her rehearing application is unclear as to how the challenged Decision accomplishes this deprivation. The equality guaranteed by the Equal Protection Clause of the Fourteenth Amendment to the federal Constitution is equality under the same conditions, and among persons similarly situated. Classifications of persons and businesses and other activities must be reasonable, must not be arbitrary, and must be based upon some difference in the classes having a substantial relation to a legitimate objective. (See Reed v. Reed (1971) 404 U.S. 71; Brown v. Merlo (1973) 8 Cal.3d 855, 861.) Article I, §7(a) of the California Constitution also prohibits the denial of equal protection of the laws. (See Gay Law Students Assn v. Pacific Tel. & Tel. Co. (1979) 24 Cal.3d 458, 468; Hawkins v. Superior Court (1978) 22 Cal.3d 584, 593.)

Karrison's equal protection claim is without merit. Nowhere in her rehearing application does she articulate how she was treated differently than similarly situated individuals. There is simply no evidence in the record to demonstrate that Karrison was deprived of equal protection of the laws. Accordingly, the Commission adequately complied with both federal and state equal protection requirements.

C. The Evidence Supports the Decision's Factual and Legal Conclusions.

In her rehearing application, Karrison alleges that the evidence submitted to the Commission does not support the Decision's findings of fact and conclusions of law. Despite Karrison's contention, the Decision is amply supported by the evidentiary record.

Public Utilities Code Section 1705 provides that Commission decisions shall contain findings of fact and conclusions of law on all issues material to the order or decision. (Pub. Util. Code, §1705; see also Pub. Util.

Code §1757, subd. (a)(3).) The California Supreme Court has observed that findings of fact and conclusions of law by the Commission are intended to assist the court in ascertaining the principles relied on by the Commission so that a court may determine whether the Commission acted arbitrarily. (California Manufacturers Ass’n. v. Public Utilities Com. (1979) 24 Cal.3d 251, 258-59.) For example, the California Supreme Court has held that the findings of fact and conclusions of law by the Commission were adequate if they disposed of all issues necessary and relevant to the Commission’s decision to sanction a company on the grounds that service was used for illegal purposes. (Goldin v. Public Utilities Commission (1979) 23 Cal.3d 638, 670.) Additionally, findings and conclusions are meant to assist the parties in preparing for rehearing or court review. (California Manufacturers Ass’n. v. Public Utilities Com., supra, 24 Cal.3d at pp. 258-259.)

Karrison clearly disagrees with many of the factual and legal conclusions contained in the Decision. However, her application for rehearing fails to provide a basis for her assertion that the findings of fact and conclusions of law contained in D.01-08-002 are not supported by the record. As the trier of fact in this administrative proceeding, the presiding ALJ received evidence and testimony over a period of three days, and was entrusted with the task of weighing conflicting evidence and formulating factual and legal findings. Simply disagreeing with the Decision’s findings of fact and conclusions of law is insufficient to demonstrate that these findings and conclusions are not supported by the evidentiary record.

In sum, Karrison has failed to establish that the evidence submitted to the Commission does not support the Decision’s findings of fact and conclusions of law.

III. CONCLUSION

Rehearing is denied because no legal error has been demonstrated.

IT IS THEREFORE ORDERED THAT:

1. Rehearing of D.01-08-002 is denied.
2. This proceeding is closed.

This order is effective today.

Dated December 11, 2001, at San Francisco, California.

LORETTA M. LYNCH

President

HENRY M. DUQUE

RICHARD A. BILAS

CARL W. WOOD

GEOFFREY F.BROWN

Commissioners